

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO**

| | | |
|---|---|----------------------------------|
| WILLIAMS FARMS PRODUCE |) | |
| SALES, INC., |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | 2:07-cv-00712-EAS-TPK |
| |) | |
| JDM TRUCKING, INC., et. al., |) | |
| |) | Honorable Judge Edmund A. Sargus |
| Defendants. |) | |
| <hr style="width: 40%; margin-left: 0;"/> | | |
| WEIS-BUY FARMS, INC., |) | |
| |) | |
| Weis-Buy, |) | |
| |) | |
| v. |) | |
| |) | |
| JDM TRUCKING INC., DONALD L. |) | |
| MILLER, deceased, and JEANETTE |) | |
| MILLER each individually, |) | |
| |) | |
| Defendants. |) | |
| |) | |

CONSENT JUDGMENT ENTRY AGAINST JDM TRUCKING, INC.

WHEREAS, on July 25, 2007, Plaintiff Williams Farms Produce Sales, Inc. ("Williams Farms") filed the present action against Defendants, JDM Trucking, Inc. (the "Company") Donald L. Miller ("D. Miller") and Jeanette Miller ("J. Miller") (collectively herein referred to as the "Defendants"), seeking recovery under the Perishable Agricultural Commodities Act, 7 U.S.C. § 499 *et seq.* ("PACA");

WHEREAS, having been granted leave to intervene, on November 13, 2007, Intervenor Plaintiff Weis-Buy Farms, Inc. filed a Complaint in Intervention against Defendants, also seeking recovery under PACA;

WHEREAS, the trust provisions of PACA establish a statutory trust under which Defendants were and still are required to hold in trust all inventory of perishable agricultural commodities, inventory of food or products derived from produce, accounts receivable or proceeds from the sale of such commodities or products, cash, and other assets, produce related or not, commingled with proceeds of such commodities or products ("PACA Trust Assets");

WHEREAS, counsel for Plaintiffs and the Company have conferred and reached an agreement regarding the terms of this Consent Judgment.

Accordingly, **IT IS STIPULATED AND AGREED** by Plaintiffs and JDM Trucking, Inc. as follows:

A) The Company does not object to the entry of Judgment against it upon the terms in this Order and any additional terms this Court deems necessary to issue this Order.

B) Plaintiffs and the Company agree that this Order is reasonable and necessary to finalize this matter as to the Company and to minimize expenses.

C) This Order may be executed in any number of counterparts with the same effect as if all signatories had signed the same document.

D) Plaintiffs reserves and retains all rights to proceed against D. Miller, the estate of D. Miller and J. Miller in this action.

Based on the foregoing, **IT IS HEREBY ORDERED**, as follows:

1. Judgment is entered in favor of Plaintiff, Williams Farms Produce Sales, Inc. and against JDM Trucking, Inc. in the amount of \$72,234.61, which represents its

principal PACA claim of \$39,771.52, plus prejudgment interest of \$12,414.41 and attorney fees of 20,048.68.

2. Judgment is entered in favor of Intervenor Plaintiff Weis-Buy Farms, Inc. and against JDM Trucking, Inc. in the amount of \$50,410.22, which represents its principal PACA claim of \$27,542.00, plus prejudgment interest of \$3,398.32 and attorney fees of \$19,469.90.

3. Post-judgment interest at the federal statutory rate of 1.86% shall accrue from the date set forth below.

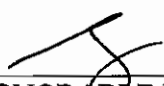
4. The Company and Jeanette Miller shall continue to have a duty to not dissipate any assets impressed now or in the future by the express statutory trust under 499e(c)(3) that may come into their possession, custody or control after the date of entry of this Judgment. The Company and Jeanette Miller shall have an affirmative duty to within five (5) business days turn-over to either counsel for the Plaintiff or Intervenor Plaintiff any and all PACA trust assets which may come into their possession following entry of this Judgment.

5. This Judgment shall in no way preclude or dismiss any of the causes of action the Plaintiff and Intervenor Plaintiff have against the estate of Donald Miller or Jeanette Miller.

6. Nothing herein shall be construed to effect res judicata or collateral estoppel vis-à-vis any claim of the Plaintiffs against the defendant, Jeanette F. Miller, in any other civil, bankruptcy, probate or other proceeding.

7. The parties shall immediately be entitled to enforce this Judgment against the Company.

SO ORDERED.

 5-15-2008

HONORABLE EDMUND A. SARGUS
UNITED STATES DISTRICT JUDGE